

48A C.J.S. Judges § 170

Corpus Juris Secundum | August 2023 Update

Judges

Joseph Bassano, J.D.; Khara Singer-Mack, J.D.; Thomas Muskus, J.D.; Karl Oakes, J.D. and Jeffrey J. Shampo, J.D.

VI. Authority, Powers, and Duties

G. Territorial Limitations

§ 170. Generally

[Topic Summary](#) | [References](#) | [Correlation Table](#)

West's Key Number Digest

West's Key Number Digest, [Judges](#)  30

A judge may not generally exercise jurisdiction beyond the territorial limits within which he or she is authorized to act as a judicial officer, and thus, a judge cannot exercise judicial authority in a case pending in a court outside the limits of his or her territorial jurisdiction unless expressly authorized to do so.

As a general rule, a judge may not exercise jurisdiction beyond the territorial limits within which he or she is authorized to act as a judicial officer.¹ Accordingly, a judge ordinarily has authority to preside only over cases pending in the judicial district or circuit in which the judge serves.²

While it has been held that a judge cannot ordinarily try and determine causes pending in his or her own judicial district while physically out of such district,³ it has also been held that a judge who presided over the trial of a case had jurisdiction to hear the arguments of parties' counsel regarding posttrial motions and to determine the merits of those motions, by telephone, while the judge was outside of the state, which procedures were agreed to by the parties.⁴

Although the general rule is that a judge cannot exercise judicial authority in a case pending in a court outside the limits of his or her territorial jurisdiction,⁵ statutory or constitutional provisions authorizing the temporary assignment of a judge to a court other than that for which he or she was selected⁶ frequently provide that the judge of one county, circuit, or district may be assigned to hear and determine cases pending in another county, circuit, or district.⁷ Moreover, a circuit court judge who followed a transferred criminal prosecution outside the circuit after a change of venue in the case, without obtaining an order of temporary assignment from chief justice as required by the governing statute, has been held to have de facto authority to preside over the case in the other circuit, the rationale being that the lack of an official assignment of a visiting judge to another circuit by the chief justice does not deprive the court of subject matter jurisdiction.⁸

On the other hand, a search warrant issued for execution within a judicial circuit by a circuit judge of another judicial circuit has been held invalid, notwithstanding any alleged exigent circumstances or the officer's good faith, where the judge has no constitutional or statutory authority to act outside the judicial circuit absent an appointment by the chief justice.⁹

Federal district judges.

A federal district judge, while appointed to act in a certain designated district, is nevertheless a United States judge with full authority to act wherever designated in any state or territory of the United States.¹⁰

Westlaw. © 2023 Thomson Reuters. No Claim to Orig. U.S. Govt. Works.

Footnotes

- 1 Ark.—*State v. Vaughan*, 343 Ark. 293, 33 S.W.3d 512 (2000).
S.C.—*Cox v. Fleetwood Homes of Georgia, Inc.*, 334 S.C. 55, 512 S.E.2d 498 (1999).
S.D.—*State v. Wilson*, 2000 SD 133, 618 N.W.2d 513 (S.D. 2000).
- 2 Ark.—*State v. Vaughan*, 343 Ark. 293, 33 S.W.3d 512 (2000).
- 3 Miss.—*McGowan v. State*, 189 Miss. 450, 196 So. 222 (1940).
N.C.—*House of Style Furniture Corp. v. Scronce*, 33 N.C. App. 365, 235 S.E.2d 258 (1977).
Denial of motion to suppress
A pretrial order denying a criminal defendant's suppression motion is a nullity where it is signed out of session, out of county, and out of the district; thus, it is incumbent on the trial judge, when the defendant renews the motion, to consider the motion anew and conduct a hearing thereon.
N.C.—*State v. Boone*, 310 N.C. 284, 311 S.E.2d 552 (1984).
- 4 Cal.—*Dell'Oca v. Bank of New York Trust Co., N.A.*, 159 Cal. App. 4th 531, 71 Cal. Rptr. 3d 737 (1st Dist. 2008), as modified on denial of reh'g, (Feb. 22, 2008).
- 5 U.S.—*U.S. v. Muncey*, 185 F. Supp. 107 (E.D. Tenn. 1960).
Ga.—*State Highway Dept. v. Swain*, 108 Ga. App. 708, 134 S.E.2d 506 (1963).
Neb.—*Hanson v. Hanson*, 195 Neb. 836, 241 N.W.2d 131 (1976).
- 6 §§ 168, 169.
- 7 Ky.—*Baze v. Com.*, 276 S.W.3d 761 (Ky. 2008).
Mont.—*State ex rel. Wilcox v. District Court of Thirteenth Judicial Dist.*, 208 Mont. 351, 678 P.2d 209 (1984).
S.D.—*State v. Wilson*, 2000 SD 133, 618 N.W.2d 513 (S.D. 2000).
For discussion of the designation or selection of substitute or special judges, generally, see §§ 349 to 363.
- 8 Fla.—*Card v. State*, 497 So. 2d 1169 (Fla. 1986).

9 S.C.—*State v. Wilson*, 2000 SD 133, 618 N.W.2d 513 (S.D. 2000).

10 U.S.—*U.S. v. Certain Tracts of Land in Los Angeles County, Cal.*, 57 F. Supp. 739 (S.D. Cal. 1944).

End of Document

© 2023 Thomson Reuters. No claim to original U.S. Government Works.